

**FILED**

NOV 13 2012

Clerk, U.S. District Court  
District Of Montana  
Missoula

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**ATTORNEYS FOR PLAINTIFF  
UNITED STATES OF AMERICA**

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MONTANA  
BILLINGS DIVISION**

**UNITED STATES OF AMERICA,**

**Plaintiff,**

**vs.**

**SM ENERGY CO.,**

**Defendant.**

**MT 12-33- CSO**

**INFORMATION**

**UNLAWFUL TAKE OF  
MIGRATORY BIRDS (Counts  
I, II, III)  
Title 16 U.S.C. § 703, 707(a)  
Penalty: Five years  
probation, \$15,000 fine.**

THE UNITED STATES ATTORNEY CHARGES:

COUNT ONE

On or about October 3, 2007, in the District of Montana, the defendant, SM ENERGY CO., through a person and entity acting on its behalf, did unlawfully take approximately 2 migratory birds, as that term is defined in Title 50, Code of Federal Regulations, Sections 10.12 and 10.13, which died after contact with hydrocarbons or other liquids harmful to wildlife in an un-netted reserve pit operated by the defendant or its agents at the Johnson 14-31H well site in Richland County, and at no time had the defendant or the person or entity acting on its behalf obtained a permit or other valid authorization to take a migratory bird.

In violation of Title 16, United States Code, Sections 703 and 707(a).

COUNT TWO

On or about and between September 18, 2007, and April 30, 2008, in the District of Wyoming, the defendant, SM ENERGY CO., through a person and entity acting on its behalf, did unlawfully take approximately 3 migratory birds, as that term is defined in Title 50,

Code of Federal Regulations, Sections 10.12 and 10.13, which died after contact with hydrocarbons or other liquids harmful to wildlife at poorly-netted and partially open reserve pits operated by the defendant or its agents at the Quealy Dome Field in Albany County and the Big Sand Draw Field in Fremont County, and at no time had the defendant or the person or entity acting on its behalf obtained a permit or other valid authorization to take a migratory bird.

In violation of Title 16, United States Code, Sections 703 and 707(a).


### COUNT THREE

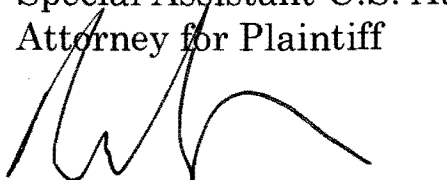
On or about September 18, 2007, in the District of Nebraska, the defendant, SM ENERGY CO., through a person and entity acting on its behalf, did unlawfully take approximately 5 migratory birds, as that term is defined in Title 50, Code of Federal Regulations, Sections 10.12 and 10.13, which died after contact with hydrocarbons or other liquids harmful to wildlife at an un-netted reserve pit operated by the defendant or its agents at the Jormar Unit in Cheyenne County, and at no time had the defendant or the person or entity acting on its behalf obtained a permit or other valid authorization to take a migratory bird.


In violation of Title 16, United States Code, Sections 703 and 707(a).


DATED this 13<sup>th</sup> day of November, 2012.

MICHAEL W. COTTER  
United States Attorney

  
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